IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6860 of 2007()

CRIME NO. 290/07 OF FEROKE POLICE STATION

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PETITIONERS/ACCUSED NO.2 TO 4:

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1. C. MOIDEENKUTTY, AGED 52 YEARS,
SON OF SAIDALI, PANOLIPADAM, MANNUR P.O.,
KADALUNDI, KOZHIKODE.

2. NABEESA C., AGED 42 YEARS,
WIFE OF C.MOIDEENKUTTY, PANOLIPADAM, MANNUR P.O.,
KADALUNDI, KOZHIKODE.

3. RAZIYA, AGED 21 YEARS,
DAUGHTER OF C.MOIDEENKUTTY, PANOLIPADAM,
MANNUR P.O., KADALUNDI, KOZHIKODE.

BY ADV. SRI.JACOB ABRAHAM
SMT.KOCHUMOL KODUVATH

RESPONDENTS:

SUB INSPECTOR OF POLICE,
FEROKE, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTORSRI. GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6860 of 2007

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Dated this the 14th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 2 to 4 in a crime registered, inter alia, under Section 498A I.P.C. The petitioners are father, mother and sister of the husband of the defacto complainant. It was the second marriage of both the spouses. Allegations of matrimonial cruelty of the culpable variety are raised against the husband of the defacto complainant as also the petitioners. There is an allegation that the defacto complainant had consumed hydrogen peroxide in an alleged attempt to commit suicide. The husband/first accused has already been released on regular bail after his arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. There is strain in the matrimony. On account of such strain, false, vexatious and exaggerated allegations are being raised by the defacto complainant against the husband as also petitioners herein. In

any view of the matter, considering the totality of circumstances, the petitioners do not deserve to suffer the trauma of arrest and incarceration in prison. The petitioners may be granted anticipatory bail, it is prayed.

3. The learned Prosecutor does not oppose the application. He submits that it may not be lost sight of that the defacto complainant had made an attempt to commit suicide at an earlier point of time.

4. I have gone through the case diary. Crime is registered on the basis of a private complaint filed by the defacto complainant before the learned Magistrate and referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. A perusal of the complaint shows clearly that there is strain in the relationship between the spouses. A child is also born in the wedlock. I am satisfied that directions under Section 438 Cr.P.C. can be issued in favour of the petitioners. In coming to this conclusion I take note of the fact that arrest and incarceration of the petitioners is likely to mar all possibilities of reconciliation of marital relationship. I do also take note of the submission of the learned Prosecutor that there is no physical injury

suffered by the victim. Subject to appropriate conditions, anticipatory bail can be granted to the petitioners.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 21.11.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 22.11.07 and 23.11.2007 and thereafter on all Mondays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 21.11.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 21.11.9.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 21.11.2007.

(R. BASANT)
Judge

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